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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD W. BASSETT, BRUCE A. BEADLE,
MICHAEL WAYNE BROWN,
LEON P. DOUD, and MICHAEL A. PAOLINI

Appeal 2009-011560
Application 09/409,594
Technology Center 2400

Before JOSEPH F. RUGGIERO, SCOTT R. BOALICK, and
ELENI MANTIS MERCADER, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the rejection of claims 1-9, 11-30, and 32-44. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

INVENTION

Appellants' claimed invention is directed to "tailoring a multimedia presentation of an event on a computerized multimedia system. A set of video streams, a set of audio streams and a set of information streams are provided for the event via a network coupled to the computerized multimedia system." Spec. 4. Responsive to user input, selected video streams and the selected audio streams are assigned to respective portions of video and audio output devices for presentation. *Id.*

Claim 1, reproduced below, is representative of the subject matter on appeal.

> 1. A method in a data processing system for user controlled selection of multimedia data streams for an event, the method comprising:
>
> receiving a set of video streams;
>
> receiving a set of audio streams;
>
> selecting a subset of the set of video streams;
>
> selecting a subset of the set of audio streams;
>
> responsive to user input to the data processing system, selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event, wherein the selecting step omits ones of the video stream subset while retaining the selected plurality of video streams, and omits ones of the audio stream subset while retaining other ones of the audio stream subset; and

presenting each of the retained plurality of video streams concurrently with one another, and also concurrently with the retained other ones of the audio stream subset.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Freeman	U.S. 5,861,881	Jan. 19, 1999
Allport	U.S. 6,097,441	Aug. 1, 2000

The following rejections are before us for review:

1. The Examiner rejected claims 1-9, 11-13, 22-30, 32-34, and 43 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

2. The Examiner rejected claims 1-9, 11-21, 43, and 44 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

3. The Examiner rejected claims 1-9, 11, 13-30, 32, and 34-44 under 35 U.S.C. § 102 (e) as being anticipated by Freeman.

4. The Examiner rejected claims 12 and 33 under 35 U.S.C. § 103 (a) as being unpatentable over Freeman in view of Official Notice in regard to a personal digital assistant.

ISSUES

The pivotal issues are whether:

a. Appellants' Specification provides adequate disclosure for the limitation of "selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event" as recited in claim 1;

b. Freeman teaches the limitation of "selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event" as recited in claim 1; and

c. Claims 1-9, 11-21, 43, and 44 recite statutory subject matter.

ANALYSIS

I. Analysis with respect to the rejection of claims 1-9, 11-13, 22-30, 32-34, and 43 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement rejection.

The Examiner asserts that there is no disclosure of selecting video and audio streams from the already selected subsets of video and audio streams as recited in claim 1. (Ans. 3-5).

Appellants argue that their Specification (Spec. 18:10-23) teaches explicitly that "video overlay streams can be made selectable by a user. Thus, by selecting a player's name, the overlay stream with that player's biography can be brought up. By making the video streams pertaining to player statistics likewise selectable, . . . a player's name could be selected to also bring up an overlay stream with statistics for that player." (App. Br. 17).

Appellants further state that their Specification (Spec. 16:33-17:3) teaches that "several video overlays can be streamed and selected, and can also be mixed to overlay the final video. . . . . [S]uch as one stream pertaining to a selected player's biography and another stream pertaining to a selected player's statistics, can be presented concurrently with one another." (App. Br. 17) (underlines omitted).

We agree with Appellants that the above cited sections provide support for a plurality of video streams that could be selected from a subset of video streams, while other video streams could be omitted.

Appellants further argue that their Specification (Spec. 15:24-30) teaches that "a user can select a subset of audio streams, which are respectively provided from the microphones of a number of different speakers." (App. Br. 17). "Upon listening initially to the speaker of a selected audio stream, the user can decide that he no longer wishes to listen to such speaker." (App. Br. 17-18; Spec. 15: 31-16:5).

Accordingly, we agree with Appellants that the user is provided with the capability to "deselect" or "omit the audio streams of each such speaker, while retaining the audio streams provided by other speakers" (App, Br. 17-18).

For the aforesaid reasons we will reverse the Examiner's rejection of claim 1 and for the same reasons the rejection of claims 2-9, 11-13, 22-30, 32-34, and 43 under 35 U.S.C. § 112, first paragraph.

II. Analysis with respect to the rejections of claims 1-9, 11-21, 43, and 44 under 35 U.S.C. § 101.

We agree with Appellants that claims 1-9 and 11-21are directed to statutory subject matter (App. Br. 24). All of these claims recite the term "system" or a method executed in such a "system" which constitutes statutory subject matter.

However, we do not agree with Appellants that claims 43 and 44 recite statutory subject matter. We agree with the Examiner that Appellants' Specification defines the computer readable medium as a signal bearing medium which does not constitute statutory subject matter. "A transitory,

propagating signal . . . is not a 'process, machine, manufacture, or composition of matter.' Those four categories define the explicit scope and reach of subject matter patentable under 35 U.S.C. § 101; thus, such a signal cannot be patentable subject matter." *In re Nuijten*, 500 F.3d 1346, 1357 (Fed. Cir. 2007) *reh'g en banc denied*, 515 F.3d 1361 (Fed. Cir. 2008), *cert. denied*, 555 U.S. 816 (2008).

Accordingly, we will reverse the Examiner's rejections of claims 1-9, 11-21, and affirm the Examiner's rejections of claims 43 and 44 under 35 U.S.C. § 101.

III. Analysis with respect to the rejections of claims 1-9, 11, 13-30,32 and 34-44 under 35 U.S.C. § 102(e).

Appellants argue that Freeman fails to teach selecting a subset of video streams from a received set of video streams and a subset of audio streams from a set of received audio streams (App. Br. 22). Appellants also point out (App. Br. 22) that Freeman only teaches a single video stream for presentation at a particular time (col. 5, ll. 9-19; col. 6, ll. 42-44; col. 7, l. 32-37; and col. 8, ll. 32-37).

Even if we were to agree with the Examiner's broadest interpretation to include a video graphic within the meaning of a "video stream" (Ans. 20), we find no teaching in Freeman for the limitation of "selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event" as recited in claim 1.

At best, Freeman teaches that a selection can be made for video and audio segments and for display of graphics (col. 12, ll. 31-49). However, we see no support for selecting a subset from the received video and audio

streams (i.e., a de-selection option or a switching option). Thus, we agree with Appellants that claim 1 distinguishes over Freeman in reciting a two-part selection procedure.

We will also reverse the Examiner's rejections of claim 1 and for the same reasons the rejections of claims 2-9, 11, 13-30, 32, and 34-44 under 35 U.S.C. § 102(e).

IV. Analysis with respect to the rejections of claims 12 and 33 under 35 U.S.C. § 103(a).

We will also reverse the Examiner's rejection of dependent claims 12 and 33 for the same reasons as those stated *supra*.

CONCLUSIONS

a. Appellants' Specification provides adequate disclosure for the limitation of "selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event" as recited in claim 1;

b. Freeman does not teach the limitation of "selecting a plurality of video streams from the video stream subset for the event, and one or more audio streams from the audio stream subset for the event" as recited in claim 1; and

c. Claims 1-9 and 11-21 recite statutory subject matter, whereas claims 43 and 44 do not.

ORDER

The Examiner's rejection of claims 1-9, 11-30, and 32-42 is reversed

and the Examiner's rejection of claims 43 and 44 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

llw